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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

GLAS-WELD SYSTEMS, INC., an Oregon
corporation,

Plaintiff,

v.

MICHAEL P. BOYLE, dba SURFACE
DYNAMIX; and CHRISTOPHER M. BOYLE

Defendants.

Case No. 6:12-cv-02273-AA

**MEMORANDUM IN SUPPORT OF
GLAS-WELD SYSTEMS, INC.'S
MOTION TO STRIKE EXHIBITS OR
SEAL DEFENDANT CHRISTOPHER
BOYLE'S ANSWER**

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Page 1 - **MEMORANDUM IN SUPPORT OF GLAS-WELD SYSTEMS, INC.'S
MOTION TO STRIKE EXHIBITS OR SEAL DEFENDANT
CHRISTOPHER BOYLE'S ANSWER**

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Plaintiff, Glas-Weld Systems, Inc. ("Glas-Weld"), submits this memorandum in support for its Motion to Strike Exhibits or Seal Defendant Christopher Boyle's Answer. Doc. No. 26.

I. INTRODUCTION

Glas-Weld requests that the Court strike and remove from the record, Exhibits 4 & 5 to Christopher Boyle's Answer (Doc. No. 71) because the exhibits contain information that should have been marked and designated as CONFIDENTIAL under the terms of the Protective Order. In the alternative Glas-Weld requests that the Court seal Christopher Boyle's Answer (Doc. No. 71) and designate Exhibits 4 & 5 of same as CONFIDENTIAL under the terms of the Protective Order.

II. ARGUMENT

Glas-Weld designates Exhibits 4 & 5 (pp. 18-23) to Christopher Boyle's Answer as CONFIDENTIAL, under the terms of the Protective Order, and therefore respectfully requests that the Court strike these exhibits or seal Christopher Boyle's Answer and designate these exhibits as CONFIDENTIAL.

Christopher Boyle alleges that the District Attorney of Deschutes County provided the Boyles with an un-redacted copy of Exhibit 4. Doc. No. 71(Christopher Boyle's Answer) at ¶ 16. The District Attorney of Deschutes County cannot waive Glas-Weld's right to designate information as confidential. Moreover, the fact that Glas-Weld provided a copy of a document that had been stolen to the District Attorney as part of the ongoing criminal felony investigation into Defendant Michael Boyle's actions also does not waive the confidentiality of such information. Christopher Boyle should have filed this document under seal and with a CONFIDENTIAL designation. Accordingly, the Court should strike Exhibit 4 from the record, or in the alternative, seal Christopher Boyle's Answer and designate Exhibit 4 to same as CONFIDENTIAL under the Protective Order.

Christopher Boyle also alleges that the Boyles obtained Exhibit 4 from Glas-Weld employee Randy Mackey. Doc. No. 71 (Christopher Boyle's Answer) at ¶16. However, Mr. Boyle does not indicate when the Boyles allegedly received this document from Randy Mackey, and whether they were still employed by Glas-Weld when they obtained it. Glas-Weld disputes any suggestion that Mr. Mackey provided this document to the Boyles after their termination. Moreover, if the Boyles obtained the document before their termination they were under a duty to destroy or return the document to Glas-Weld. Nevertheless, Christopher Boyle admits that the document contains "sensitive GlasWeld customer information," but he still included the document in his answer without any confidentiality designation. *Id.* Accordingly, the Court should strike Exhibit 5 from the record, or in the alternative, seal Christopher Boyle's Answer and designate Exhibit 5 to same as CONFIDENTIAL under the Protective Order.

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III. CONCLUSION

For the foregoing reasons Glas-Weld respectfully requests that the Court strike Exhibits 4 & 5 to Defendant Christopher Boyle's Answer from the record, or in the alternative, seal Christopher Boyle's Answer, and designate Exhibits 4 and 5 to same as CONFIDENTIAL under the Protective Order.

DATED: September 27, 2013

COSGRAVE VERGEER KESTER LLP

/s/ Paul A. C. Berg

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing
**MEMORANDUM IN SUPPORT OF GLAS-WELD SYSTEMS, INC.'S MOTION TO
STRIKE EXHIBITS OR SEAL DEFENDANT CHRISTOPHER BOYLE'S ANSWER** on
the date indicated below by:

- ☒ mail with postage prepaid, deposited in the US mail at Portland, Oregon,
- ☐ hand delivery,
- ☐ facsimile transmission,
- ☒ email
- ☒ electronic filing notification.

I further certify that said copy was delivered as indicated above and addressed to
said attorneys and defendant at the addresses listed below:

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DATED: September 27, 2013

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